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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,496	10/17/2001	Keith Mario Torpy	10032.00	3949

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GORDON & JACOBSON, P.C.  
65 WOODS END ROAD  
STAMFORD, CT 06905

EXAMINER

FASTOVSKY, LEONID M

ART UNIT PAPER NUMBER

3742

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/787,496

**Applicant(s)**

TORPY ET AL.

**Examiner**

Leonid M Fastovsky

**Art Unit**

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040914</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 6-7, 9-11, 16-17, 19-20, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auding et al in view of Belitskii et al (886,328)..

Auding et al discloses substantially the claimed features including a thin film heating element (Fig. 1) including a layer of electrically conductive metal oxide on electrically insulating substrate (Abstract), the metal oxide layer being doped with foreign atoms, but does not disclose the layer being doped with at least one rare earth element. In addition, Auding et al discloses the metal oxide layer further including a donor element -an antimony and acceptor element -zinc in a quantity from 3 to 5 at. % (col. 4, lines 53-56), a heating element being stable at a temperature of 600 degree C (Col. 1, lines 62-65), and at power density exceeding 10 W per cm square (Col. 2, lines 7-10), and pyrolysis method of depositing (Col. 4, lines 57-60). However, Auding does not disclose the metal oxide layer consisting of cerium and lanthanum,. Belitskii discloses a thin film-type heater having two rare earth elements such as cerium and lanthanum (Abstract).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to use rare earth elements as taught by Belitskii et al in order to provide a satisfactory stability in the high power density application of the heating element.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auding et al in view of Belitskii et al and further in view of Cooper (5,616,266). Auding et al in view of Belitskii et al discloses substantially the claimed invention, except that a metal oxide is a tin oxide. Cooper shows a metal oxide being a tin oxide (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tin oxide to allow delivery of substantial power at lower operating temperatures and low power densities for greater efficiency as taught by Cooper (Abstract, lines 16-18).

4. Claims 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auding in view Belitskiii and further in view of Flory et al (5,132,280).

Auding in view of Belitskii discloses substantially the claimed features except that a metal layer is free of fluorine. Flory et al shows a metal layer free of fluorine (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a metal layer free of fluorine to simplify deposition control of the metal deposits as taught by Flory (Abstract, lines 12-15)

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5. Claims 12 -15, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auding in view of Belitskii and further in view of Sano et al (5,130,281).

Auding in view of Belitskii discloses substantially the claimed features, except concentration of rare earth elements. Sano et al discloses a concentration of rare elements between 2.5- 5 mol % (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a concentration of rare elements as taught by Sano to be suitable for heating element applications and for better stability (Abstract).

6. Claims 18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auding in view Belitskii and further in view of Brown (4,721,632).

Auding in view of Belitskii discloses substantially the claimed invention, except a monobutyl tin trichloride. Brown discloses a method of manufacturing a doped tin oxide film using solution of monobutyl tin trichloride (Col. 5, lines 20-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a monobutyl tin trichloride to give the doped tin oxide film the desired conductivity and emissivity characteristics as taught by Brown (Col. 5, lines 20-25).

7. Claim 3, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auding in view of Belitskii and further in view of Dinter (6,404,130).

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Auding in view of Belitskii discloses substantially the claimed invention, except equal concentration of rare elements. Dinter discloses a heater with three equal concentration of rare earth metals (Col. 5, lines 19-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an equal concentration of rare elements to maximize stability of the heating element as taught by Dinter (Col. 5, lines 19-20).

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auding e in view of Belitskii and further in view of Aslam et al (4,912,0870).

Auding in view of Hunt and Sasaki discloses substantially the claimed feature, except a step of annealing. Aslam shows a step of annealing during a manufacturing of thin film electrical heating element (Col. 2, lines 19-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a step of annealing as taught by Aslam to assist in stabilizing the film (Col. 2, lines 19-29).

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection. Notwithstanding Applicant's arguments regarding a minor amount of a dielectric material, it would have been obvious to one having ordinary skill in the art to adjust an amount of the dielectric material because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art.


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As for claim 19, Brown teaches an electrically conductive layer deposited by pyrolysis of organometallic solution consisting monobutyl tin chloride (col. 5, lines 20-25).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



Leonid M Fastovsky  
Examiner  
Art Unit 3742

Lmf

11/27/04